IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.163 OF 2007
IN
SUIT NO.1957 OF 1993

Pushpakunj Co-operative Housing Society
Ltd. & Ors. ...Plaintiffs
Vs.
Ms. Navketan Builders & Ors. ...Defendants
And
Municipal Corporation of Greater Mumbai ...Applicants

Mr.F.Divitre with Mr. B.B.Colabawalla
i/b Hariani & Co. for Plaintiffs
Mr. N.V. Walawalkar with Mr. H.C. Pimple and
Mr. R.Y. Sirsekar for BMC/Applicants
Ms. Yasmi Tavaria for Respondent No.6

CORAM: SMT. ROSHAN DALVI, J.
DATED: 2ND MARCH, 2007

P.C.

1. The BMC has taken out this Chamber Summons for leave to issue notice under Section 351 of the Bombay Municipal Corporation Act upon the Court Receiver in respect of the alleged unauthorised construction of 10th and 11th floors of the suit building for which the Court Receiver is appointed.

2. Taking out the notice is following the due legal process under the BMC Act. No party can restrain the Municipal Authority from following legal procedure. Notice under Section 351 shall be issued by the BMC and served upon the Court Receiver. The Plaintiffs, who got the Court Receiver appointed, shall be entitled to reply the notice. The owner of the construction on the suit plot of land who would be effected by the issue of the notice shall also be given a copy of the notice and shall be entitled to file a reply to the notice. The BMC shall consider both the replies and pass a reasoned order as per procedure.

3. The Chamber Summons disposed of accordingly.

4. It is clarified that the owners of the construction alleged to be authorised are heard and their rights are protected as per the above order.

(SMT.ROSHAN DALVI, J.)